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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
09/091,958	06/07/1999	JONATHAN EMBLETON	98.392	5511	
28940 75	90 12/15/2004		EXAMINER		
AGOURON PHARMACEUTICALS, INC. 10350 NORTH TORREY PINES ROAD			FAY, ZOHREH A		
LA JOLLA, CA			ART UNIT	PAPER NUMBER	
			1614		
			DATE MAILED: 12/15/2004	1	

Please find below and/or attached an Office communication concerning this application or proceeding.

			Applicati	on No.	Applicant(s)					
Control Fay	Office Action Summary		09/091,958		EMBLETON ET AL.					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Roply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Learness in territy by a middle with the procession of 3 CPR 1.136(s). In role event, however, may a righty be timely filled The period for regity secretion above its sets that the 10 (30 days, a reply within the statutory minimum of stairy (30) days will be considered freely, if the period for regity secretion devote, the maximum of allicity point will apply and will septor 8(s) (30 MONTH's from the making size of this communication. Any regity reclined by the Office later than there rouths after the malities of the communication, over it may flet, may reduce any certain glater than adjustment. Set 37 CPR 1.704(s). Status 1)			Examine	niner Art Unit		T				
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2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1 and 5-20 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) are subjected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some to None of: 1. Certified copies of the priority documents have been received. Altachment(s) 1 See the attached detailed Office action for a list of the certified copies not received. Altachment(s) 1 Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5 Notice of References Clied (PTO-892) 1 Notice of Informal Palent Application (PTO-152) 9 Notice of Informal Palent Application (PTO-152) 1 Other:	Status									
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Claims 1 and 5-20 are presented for examination.

The remarks filed on have been received and entered.

Claims 1 and 5-20 are again rejected under 35 U.S.C. 103 as being unpatentable over the European Patent Application 0 224 352 for the reasons set forth on pages 2 and 3 of the office action of April 7, 2004.

Applicant's arguments and remarks have been carefully considered, but are not deemed to be persuasive. Applicant alleges criticality to the jet or stream of droplet in comparison to the spray of droplets taught by the prior art. The allegation is not well taken. Applicant fails to differentiate how a jet stream of droplet is different than spray of droplet. Applicant on page 14 of the specification refers to GB patents, which teach the devices for administrating the claimed invention of jet stream of droplets. The prior art teaches a spray of droplets and also devices for administering jet stream of droplets for ophthalmic use. There is no evidence to establish the advantages of the claimed droplets over the droplets used by the prior art. Thus, the prior rejection sustains.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zohreh Fay whose telephone number is (571) 272-0573. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (571) 272-0951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Z.F